

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
JOSE VILLANUEVA,
Defendant.

No. 1:20-cr-00176-DJC

ORDER

Defendant Jose Villanueva appeals Magistrate Judge Stanley A. Boone's revocation of probation and imposition of a term of incarceration following Villanueva's failure to submit monthly payments toward his court-ordered financial penalty. For the reasons discussed below, the Court finds that Magistrate Judge Boone's revocation of probation and subsequent sentencing of incarceration were lawful and reasonable.

FACTS AND PROCEDURAL HISTORY

On August 19, 2019, Villanueva pleaded guilty to operating a motor vehicle while having a suspended driver's license due to a prior driving while under the influence charge in violation of 36 C.F.R. section 4.2 and California Vehicle code section 14601.2(a). (ECF No. 13.) Judge Boone sentenced Villanueva to 24 months of probation and a \$1,010 monetary obligation to be paid in monthly installments of

1 \$100 until the balance was paid in full. (*Id.*) On September 15, 2020, the district court
2 approved a petition for the revocation of Villanueva's probation. (ECF No. 20.) That
3 petition alleged that Villanueva had violated the terms of his probation by failing to
4 make monthly payments toward his fine; he had only made one monthly payment and
5 had an outstanding balance of \$910. (*Id.*) At a hearing two days later, Villanueva
6 entered an admission to the petition's charge, and the Court formally found that
7 Villanueva had violated the terms of his probation. (ECF No. 24; see ECF No. 30
8 (transcript).) Villanueva's counsel informed Judge Boone that Villanueva had been ill
9 for an extended period and that he had recently welcomed a child into his family.
10 (ECF 30 at 13.) Villanueva asked Judge Boone if Villanueva could remain on his
11 previously ordered term of probation and for the opportunity to resume paying his
12 fine, which had a balance of \$910. (*Id.* at 13-14; see ECF No. 20.) However, at that
13 same hearing, Judge Boone revoked Villanueva's probation and imposed a term of
14 imprisonment of five nonconsecutive days to be served over consecutive weekends
15 beginning in October 2020. (ECF No. 30 at 18.) The Court has no current information
16 indicating whether Villanueva has served his sentence, but will assume that he has
17 done so, given the time that has elapsed since Judge Boone sentenced Villanueva.

18 Villanueva appealed his revocation of probation and subsequent sentencing to
19 District Judge Dale A. Drozd on October 1, 2020. (ECF No. 27.) The case was
20 reassigned to then-District Judge Ana de Alba on August 24, 2022. (ECF No. 43.) The
21 case was reassigned to District Judge Daniel J. Calabretta on May 9, 2024. (ECF No.
22 46.)

23 **LEGAL STANDARD**

24 A Magistrate Judge's decision to revoke a term of probation is reviewed for an
25 abuse of discretion. See *United States v. Laughlin*, 933 F.2d 786, 788 (9th Cir. 1991).
26 The sentence imposed upon revocation is reviewed for reasonableness. *Gall v. United*
27 *States*, 552 U.S. 38, 51 (2007). A court may revoke probation and impose a prison
28 sentence if it finds by a preponderance of the evidence that the defendant violated a

1 condition of supervised release. 18 U.S.C. § 3583(e)(3). But if revocation is based on
2 a failure to pay a financial obligation, the court must also consider “the defendant's
3 employment status, earning ability, financial resources, the willfulness in failing to
4 comply with the fine or restitution order, and any other circumstances that may have a
5 bearing on the defendant's ability or failure to comply with the order of a fine or
6 restitution.” 18 U.S.C. § 3613A(a)(2).

7 **DISCUSSION**

8 Villanueva argues that Judge Boone did not conduct a “full financial inquiry”
9 into the causes of Villanueva’s missed payments, and therefore failed to comply with
10 18 U.S.C. section 3613A(a)(2). (ECF No. 35 at 4–6; ECF No. 40 at 2.) The Government
11 argues that Judge Boone fairly considered various contextual factors volunteered by
12 Villanueva and his attorney, and therefore, Judge Boone’s decision did not solely
13 punish Villanueva with incarceration for his inability to pay. (ECF No. 39 at 4–6.) This
14 Court finds that Judge Boone had sufficient information from Villanueva to revoke
15 probation and impose a brief period of incarceration in accordance with 18 U.S.C.
16 section 3613A(a)(2).

17 During “revocation proceedings for failure to pay a fine or restitution, a
18 sentencing court must inquire into the reasons for the failure to pay.” *Bearden v.*
19 *Georgia*, 461 U.S. 660, 672 (1983). The Government cannot “fine as a sentence and
20 then automatically convert[] it into a jail term solely because the defendant is indigent
21 and cannot forthwith pay the fine in full.” *Tate v. Short*, 401 U.S. 395, 398 (1971). But
22 “[i]f the probationer has willfully refused to pay the fine or restitution when he has the
23 resources to pay or has failed to make sufficient bona fide efforts to seek employment
24 or borrow money to pay, the State is justified in using imprisonment as a sanction to
25 enforce collection.” *Bearden*, 461 U.S. at 660.

26 Here, Judge Boone sufficiently determined that Villanueva had not made bona
27 fide efforts to pay his fines while having the ability to do so, and therefore, the
28 revocation of probation and subsequent sentencing were properly within Judge

1 Boone's discretion. During the sentencing hearing, Judge Boone heard from both
2 Villanueva and his attorney regarding the reasons Villanueva failed to pay his fines.
3 For example, Villanueva's attorney remarked that "Villanueva has a lot of
4 responsibilities, and he lost control of those responsibilities," noting that Villanueva
5 was recently ill for roughly a period of month, causing him to be absent from work.
6 (ECF No. 30 at 13:22-24.) His attorney also informed Judge Boone that Villanueva
7 had recently had a newborn child, explaining that collectively these factors are "why it
8 slipped his mind to continue the payments." (*Id.* at 13:24-25, 14:1-3.)

9 Judge Boone then explicitly informed Villanueva that he would have an
10 "opportunity to be heard" and that he was "free to tell [Judge Boone] whatever you
11 want [Judge Boone] to consider for purposes of sentencing." (*Id.* at 14:14-16.)
12 Villanueva responded that he was "fully responsible for not complying with the
13 paying. I understand that. It was a rough time." (*Id.* at 14:17-19.) Villanueva then, like
14 his attorney, pointed to the fact that he had recently been ill and that he had a
15 newborn child. (*Id.* at 14:19-24.) It appears, based on the transcript, that Villanueva
16 was employed during the period when he failed to make timely payments. (*Id.* at
17 18:5-7; 21:5-6.) Villanueva did not inform Judge Boone of any change in his financial
18 situation, such as a loss of income, as required under the terms of his probation. (*Id.*
19 at 16:2-3, 19:21-25, 20:1.)

20 At the conclusion of the hearing, Judge Boone informed Villanueva that he
21 would sentence him to a period of incarceration, noting that "I am also mindful of what
22 I sentence the defendant to and his compliance with those terms and conditions
23 which, frankly, was close to nil in terms of complying with those terms and conditions."
24 (*Id.* at 15:22-25.) Judge Boone further opined that it was "an issue of priority" that
25 Villanueva had failed to pay the installments. (*Id.* at 16:3-4.)

26 Villanueva's argument is essentially that because Judge Boone failed to
27 specifically inquire into why Villanueva did not make the missed payments, Judge
28 Boone could not then incarcerate him for failure to pay the fines. But while *Bearden*

1 prohibits incarceration as a punishment for indigency, Judge Boone had adequate
2 information before him to make a finding that Villanueva had not made the sufficient
3 bona fide efforts to pay the fines. Judge Boone asked Villanueva to share any
4 information that he thought would be relevant to his subsequent sentencing. Both
5 Villanueva and his attorney told Judge Boone the extenuating circumstances behind
6 Villanueva's failure to pay, giving Judge Boone the information he needed to make an
7 informed decision to revoke probation and incarcerate Villanueva in compliance with
8 18 U.S.C. section 3613A(a)(2). Judge Boone was aware of Villanueva's period of
9 illness and his newborn child, but also that Villanueva was employed at the time.
10 These factors indicate that Villanueva had a source of income and could pay during
11 that period, which is supported by the fact that Villanueva did not inform Judge
12 Boone of any changes in his finances or pay.

13 Villanueva points to no case, nor is the Court aware of one, in which a court
14 viewed its obligations under *Bearden* as requiring the court to make an explicit inquiry
15 into a defendant's financial circumstances, even after the court and defendant had
16 discussed those same circumstances only minutes earlier. Because Judge Boone had
17 sufficient insight into Villanueva's financial state at the time, an admission from
18 Villanueva's attorney that it "slipped [Villanueva's] mind to continue the payments,"
19 and an admission from Villanueva that he was "fully responsible for not complying
20 with the paying," this Court finds that Judge Boone satisfied *Bearden's* inquiry
21 requirements in finding that Villanueva did not make bona fide efforts to pay his court-
22 imposed financial penalty. Accordingly, the revocation of probation and the
23 imposition of incarceration do not stem from a failed inquiry into Villanueva's financial
24 situation, and both are permissible under Judge Boone's discretion.

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CONCLUSION

Judge Boone's revocation of probation and subsequent imposition of incarceration for Defendant's missed payments are permissible. This Court declines to vacate Judge Boone's sentence and declines to remand this case for resentencing.

IT IS SO ORDERED.

Dated: **June 18, 2025**


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE

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